

(24)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. No. 204/95

MAY

New Delhi: this the 1st day of April, 2000.

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Soratan Singh,
Head Security Guard,
Noida Export Processing Zone,
Noida (Ghaziabad UP)Applicant.

(By Advocate: Shri A.K. Srivasta, Sr. Advocate
and Shri Rajeev Singh)

Versus

Union of India through
the Secretary,
Ministry of Commerce (EPZ Section),
Govt. of India,
Udyog Bhawan,
New Delhi.

2. The Development Commissioner,
Ministry of Commerce,
Noida Export Processing Zone,
Noida.

3. Administrative Officer,
Noida Export Processing Zone,
Noida (Ghaziabad UP) .

4. Shri Ramesh Chand,
Asstt. Security Officer,
Noida Export Processing Zone,
Noida (Ghaziabad UP)Respondents.

(By Advocate: Shri K.R. Sachdeva for official respondents
& Ms. Raman Oberoi for Pvt. Respondents).

ORDER

Hon. Mr. S. R. Adige, VC (A)

Applicant impugns the provisional seniority list of Head Security Guards in Noida Export Processing Zone dated 17.6.94 (Annexure-V) and respondents' Office order dated 21.10.94 (Annexure-X). He seeks placement in the impugned seniority list above Respondent No. 4 Shri Ramesh Chand, and for

quashing of the promotion of Respondent No.4 as Asstt. Security Officer and for his own promotion as such.

2. Interviews for filling up of posts in Security Division in NEPZ were conducted on 9.5.86 at Zone Office, Noida by a Committee consisting of

1. Development Commissioner, NEPZ - Chairman
2. Development Commissioner, Cochin -Coop td. Member
3. Accounts Officer, NEPZ & Admin. Officer Member

3. For the post of ASO, out of 6 candidates called for interview, only 4 candidates, including

(i) Respondent No.4 Shri Ramesh Chand (ii) Shri Ram Swaroop (iii) Shri Nanak Chand and (iv) Shri M.M. Issar appeared before the Selection Committee. Respondents in their reply state that S/Shri Issar and Nanak Chand were selected by the Committee for the post of ASO and Shri Ramesh Chand was not found upto the mark for the post of ASO and hence he was selected for the post of Head Security Guard. For the post of Head Security Guard, out of 18 candidates called for interview, only 11 candidates including applicant Soratan Singh appeared, out of whom only 2 namely Baljeet Singh and Soratan Singh were selected for the post of Head Security Guard and Respondent No.4 Shri Ramesh Chand who had applied for the post of ASO was also selected for the post of Head Security Guard.

4. We have heard Shri A.K. Srivastava, learned Sr. Counsel along with Shri R.K. Singh for applicant. Shri K.R. Sachdeva appeared for official respondents and Ms. Raman Oberoi for pvt. respondent No.4 who

(29)

were also heard.

5.. The main thrust of Shri Srivastava's argument was that the selection and appointment of Respondent No.4 Shri Ramesh Chand to the post of Head Security Guard who was neither a candidate, nor was he called for interview is illegal and liable to be quashed.

6. We have perused the minutes of the meeting of the Selection Committee held on 9.5.86 as also the relevant file bearing No. NEP 2/PER/8 (18) /85-86, 86-87. We note that the Dt. Soldiers Welfare cum Rehabilitation Officer, Ghaziabad, in his letter dated 11.4.86 in response to respondents' letter dated 7.4.86 forwarded a list of names of Ex-Servicemen for appointment to the post of ASO/HSG/SG. Applicants' name was recommended for the post of ASO. The Selection Committee held interview for the post of ASO, HSG and SG in the Security Division on the same day i.e. 9.5.86. The Selection Committee did not find applicant upto the mark for the post of ASO, but found him eminently suitable for the post of HSG and ranked him first in order of merit for the 3 vacancies of HSG in which applicant was ranked third in order of merit. In these circumstances, if applicant was selected, and upon being offered appointment as HSG, accepted the offer and joined as such, we find nothing illegal or arbitrary in respondents' action. Shri Srivastava has cited the ruling of a Full Bench of the M.P. High Court in Usha Narwariya Vs. State of M.P. & Others 1993 M.P.LJ page 969, but nothing contained in paras 19, 20 and 21 of that

(27)

ruling to which he has invited our attention makes respondents' action illegal or arbitrary.

He has also relied upon the Hon'ble Supreme Court's ruling in State of U.P. & another Vs. Dr. S. K. Sinha & Ors. 1995 Suppl. (1) SCC 456 but a perusal of the same makes it clear that it does not advance applicant's claim either.

7. In so far as the determination of applicant's seniority vis-a-vis Respondent No. 4 is concerned, Shri Sachdeva relies upon Home Ministry's OM dated 22.12.59 which lays down that seniority in the case of direct recruits selected in the same selection will be determined by their order of merit in such selection. Thus, as Respondent No. 4 ranked higher in order of merit vis-a-vis applicant in the selection for the post of HSG held on 9.5.86 he ranks senior to applicant despite his having joined duty a few days later than applicant. These assertions have not been successfully rebutted by applicant's counsel and nothing has been shown to us to establish that the relevant paragraphs for determination of inter se seniority of direct recruits referred to in MHA's aforesaid OM dated 22.12.59 have been stayed, modified or set aside.

8. Under the circumstance the OA warrants no interference. It is dismissed. No costs.

Kuldeep
(KULDIP SINGH)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

/ug/